

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 1521

(By Mr. Lubliner)



PASSED March 10 1945

In Effect July 1st 1945 Passage

1521

3-16

ENROLLED
House Bill No. 152

(By MR. LUBLINER)

[Passed March 10, 1945; in effect July 1, 1945.]

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new chapter, numbered chapter nine-a, relating to veterans and to establish a state agency to aid, assist, counsel and advise, and look after the rights and interests of all persons known as veterans who have served in the armed forces of the United States in the army, navy, marine corps or coast guard in times of war as defined by the laws of the United States and whose separation therefrom has been other than dishonorable and who are citizens and residents of this state, and the widows, dependents and orphans, who are or have become citizens and residents of this state, of all such persons known as veterans who have served in the armed forces of the United States in the army, navy, marine corps or coast

guard in times of war as defined by the laws of the United States and whose separation therefrom has been other than dishonorable; to transfer to such state agency from the department of public assistance and the office of the state veterans' service officer all the property, equipment, files, records and documents pertaining to veterans, their widows, dependents and orphans; to repeal article eight, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, and any and all amendments thereto, and all other acts, or parts of acts, inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, be repealed, and that said code be amended by adding thereto a new chapter to be designated chapter nine-a, to read as follows:

Section 1. *General Purposes.*--A state agency to be
2 known as the "West Virginia Department of Veterans'
3 Affairs" is hereby created and established for the pur-
4 pose of aiding, assisting, counseling and advising, and look-
5 ing after the rights and interests of, all persons known as

6 veterans who have served in the armed forces of the
7 United States in the army, navy, marine corps or coast
8 guard as defined by the laws of the United States
9 and whose separation therefrom has been other than
10 dishonorable and who are citizens and residents of this
11 state, and the widows, dependents and orphans, who
12 are or have become citizens and residents of this state, or
13 all persons known as veterans who have served in the
14 armed forces of the United States in the army, navy,
15 marine corps or coast guard as defined by the laws of
16 the United States and whose separation therefrom has
17 been other than dishonorable.

Sec. 2. *Administration.*—There shall be a “Veterans’
2 Council” which shall consist of five members who shall be
3 citizens and residents of this state, who have served in and
4 been honorably discharged or separated under honorable
5 conditions from the armed forces of the United States and
6 whose service was within a time of war as defined by the
7 laws of the United States, either Public Law No. 2—73rd
8 Congress or Public Law No. 346—78th Congress, and any
9 and all amendments thereto. The members of the vet-

10 erans' council shall be selected with special reference
11 to their ability and fitness to effectuate the purposes of
12 this act. The West Virginia Department of Veterans'
13 Affairs shall be administered by a director, and such
14 deputy directors, assistants and employees as may be
15 deemed advisable.

Sec. 3. *Terms of Veterans' Council Members.*—The term
2 of office of the members of the veterans' council shall be
3 six years, and they shall be appointed by the governor by
4 and with the advice and consent of the senate: *Provided,*
5 *however,* That upon the adoption of this act, the governor
6 as aforesaid shall appoint two members for a term of two
7 years, two members for a term of four years, and one
8 member for a term of six years, and thereafter the suc-
9 cessors of each member shall be appointed for the term
10 of six years. In case of a vacancy in the veterans' council,
11 the appointment shall be for the remainder of the unex-
12 pired term. A member of the veterans' council shall be
13 subject to removal by the governor for cause, but shall
14 have upon his own request an open hearing before the
15 governor on the complaints or charges lodged against him.
16 The action of the governor shall be final.

Sec. 4. *Functions.*—It shall be the duty and functions
2 of the veterans' council to determine the general admini-
3 strative policies of the department, to select at their first
4 meeting in each fiscal year commencing on the first day
5 of July a chairman to serve one year, to promulgate such
6 rules and regulations as may be necessary, to examine
7 into the efficiency of the department from time to time,
8 to exercise general supervision over the operations of the
9 department, to advise the governor and the Legislature
10 with respect to legislation affecting the interests of vet-
11 erans, their widows, dependents and orphans, to make
12 annual reports to the governor respecting the service of
13 the department, and to prescribe the duties of the director.
14 Such director shall have the same eligibility and qualifi-
15 cations prescribed for members of the veterans' council.
16 The governor shall appoint a director for a term of six
17 years, by and with the advice and consent of the Senate.
18 Before making such appointment, the governor shall re-
19 quest the council of the West Virginia Department of
20 Veterans' Affairs to furnish a full and complete report
21 concerning the qualifications and suitability of the pro-

22 posed appointee. The director shall be subject to re-
23 moval by the governor for cause, but shall have on his
24 own request an open hearing before the governor on the
25 complaints or charges lodged against him. The action of
26 the governor shall be final. The director ex officio shall
27 be the executive secretary of the veterans' council, keep
28 the minutes of each meeting and be in charge of all records
29 of the department.

Sec. 5. *Compensation.*—The director shall receive a sal-
2 ary of six thousand dollars per annum, payable in monthly
3 installments, and, in addition, the necessary traveling
4 expenses incident to the performance of his duties. The
5 salaries of the deputy directors, assistants and employees
6 shall be fixed by the veterans' council. The members of
7 the veterans' council shall receive no salary, but each
8 member shall receive an honorarium of ten dollars for
9 each day actually in attendance at a meeting and his
10 actual traveling expenses incurred in the performance
11 of his duties under this act. The requisition for such
12 expenses and traveling expenses shall be accompanied by
13 a sworn and itemized statement, which shall be filed with

14 the auditor and permanently preserved as a public record.
15 The veterans' council shall hold its initial meeting on the
16 call of the governor, and thereafter shall meet on the call of
17 its chairman, except as otherwise provided. With the
18 exception of the first three meetings of the veterans'
19 council, none of which shall be of a duration longer than
20 two weeks each, for organizational purposes, the veterans'
21 council shall meet not more than once every two months
22 at such times as may be determined by and upon the call
23 of the chairman for a period of not more than two days,
24 unless there should be an emergency requiring a special
25 meeting or for a longer period so declared and called by
26 the governor or by the chairman with the approval of
27 the governor. A majority of the members of the veterans'
28 council shall constitute a quorum for the conduct of offi-
29 cial business.

Sec. 6. *Oaths.*—The members of the veterans' council
2 the director, and his deputy directors, shall take and
3 subscribe to the oath prescribed by article four, section
4 five of the state constitution before entering on their du-

5 ties. Their oaths shall be filed with the secretary of
6 state.

Sec. 7. *Definitions.*—(a) The word, “veteran,” shall be
2 construed to mean any person who shall have served in
3 the armed forces of the United States as defined in sec-
4 tion one of this act.

5 (b) The term, “federal agency”, shall mean any agency,
6 department or bureau created and established by the act
7 of Congress, or executive order of the president of the
8 United States.

9 (c) The word or term, “Administrator,” shall be con-
10 strued to designate and refer to the administrator of
11 veterans’ affairs of the United States.

12 (d) The term or words, “federal act,” shall mean any
13 law of the United States.

Sec. 8. *Offices.*—The offices of the director shall be lo-
2 cated at the state capitol or other place provided in the
3 capitol city. The director shall keep his offices open at
4 all reasonable times for the transaction of business. The
5 offices and meeting place of the veterans’ council shall be
6 in the offices of the director: *Provided*, That the veterans’

7 council with the approval of the governor may hold
8 meetings at other places but not outside of this state,
9 except in the District of Columbia.

Sec. 9. *Duties of Department.*—The Department of
2 Veterans' Affairs of West Virginia shall:

- 3 (1) Assist veterans, their widows, dependents and or-
4 phans within the state, in properly presenting their
5 claims before the United States veterans' administration,
6 its administrator, or any federal agency, the state of West
7 Virginia, or any of the several states of the United States,
8 when the claims arise out of service with the armed forces
9 of the United States as defined in section one of this act;
- 10 (2) Contact all veterans' organizations in this state
11 through their duly elected or appointive officers to effectu-
12 ate the purposes of this act and aid in the efficiency of the
13 operations of the department;
- 14 (3) Render all possible and proper advice, assistance
15 and counsel to veterans, their families, and their widows,
16 dependents and orphans, within the state, and furnish
17 them information, on compensation, allowances, pen-
18 sions, insurance, rehabilitation, hospitalization, education,

19 vocational training, or refresher or retraining courses in
20 education or training, employment, loans or aid for the
21 purchase, acquisition or construction of homes, farms,
22 farm equipment and business property, preference in
23 the purchase of property and preference in employment,
24 as provided or may be provided by any federal act, any
25 federal agency, this state or other states;

26 (4) Make careful inquiry into all claims presented for
27 payment out of the state treasury from any appropriation
28 made for the benefit of veterans, their widows, depend-
29 ents and orphans.

Sec. 10. *Powers and Duties of Director.*—The director
2 shall be the executive and administrative head of the de-
3 partment, and as such shall have the power and duty,
4 subject to the provisions of section four hereof, to

5 (a) Supervise and put into effect the purposes and pro-
6 visions of this act and the rules and regulations for the
7 government of the department;

8 (b) Prescribe methods pertaining to investigations, re-
9 investigations, of all claims, and to the rights and interests
10 of all veterans, their widows, dependents and orphans;

11 (c) Prescribe uniform methods of keeping all records,
12 and case records of the veterans, their widows, dependents
13 and orphans;

14 (d) Sign and execute, in the name of the state by "West
15 Virginia Department of Veterans' Affairs," and by and
16 with the consent of the veterans' council, any contract or
17 agreement with the federal government or its agencies,
18 other states, subdivisions of this state, corporations, asso-
19 ciations, partnerships or individuals;

20 (e) Supervise the fiscal affairs and responsibilities of
21 the department;

22 (f) Organize the department to comply with the re-
23 quirements of this act and with the standards required by
24 any federal act or any federal agency;

25 (g) Establish such regional or area offices throughout
26 the state as may be necessary to promote efficiency and
27 economy in administration;

28 (h) Make such reports as will comply with the require-
29 ments of any federal act or federal agency and the pro-
30 visions of this act;

31 (i) Cooperate with the federal and state governments

32 for the more effective attainment of the purposes of this
33 act;

34 (j) Keep a complete and accurate record of all pro-
35 ceedings; record and file all contracts and agreements,
36 and assume responsibility for the custody and preserva-
37 tion of all papers and documents pertaining to his office
38 and the department;

39 (k) Prepare for the veterans' council the annual re-
40 ports to the governor of the condition, operation and func-
41 tioning of the department;

42 (l) Exercise any other powers necessary and proper to
43 standardize the work; to expedite the service and busi-
44 ness; to assure fair consideration of the rights and inter-
45 ests, and claims of veterans, their widows, dependents
46 and orphans, and to promote the efficiency of the depart-
47 ment;

48 (m) Invoke any legal, equitable or special remedies for
49 the enforcement of his orders or the provisions of this
50 act;

51 (n) Appoint the deputy directors and heads of divisions
52 of the department, and of regional or area offices, and

53 employ such assistants and employees as may be neces-
54 sary for the efficient operation of the department;

55 (o) Delegate to all or any of his appointees, assistants
56 or employees all powers and duties vested in the director,
57 except the power to sign and execute contracts and agree-
58 ments, but the director shall be responsible for the acts
59 of such appointees, assistants and employees;

60 (p) Remove at his will and pleasure any appointee,
61 assistant or employee.

Sec. 11. *Advisory Council.*—There is hereby estab-
2 lished an advisory council to the West Virginia Depart-
3 ment of Veterans' Affairs, which shall meet on the call
4 of the chairman of the veterans' council with the veter-
5 ans' council at any of its regular or special meetings, in
6 connection with the establishment of policies and rules
7 and regulations of the department to effectuate the
8 purposes of this act and promote the efficient operation
9 of the department, but the advisory council shall have
10 no vote. The director, in carrying out his powers and
11 duties, shall have the right to call on the individual
12 members of the advisory council, and through them

13 on their department, agency or organization, and also
14 to call on such other departments or agencies of the
15 state as may be necessary, for advice, aid and assistance.
16 The members of the advisory council shall be the state
17 superintendent of free schools, secretary of agriculture,
18 adjutant general, state banking commissioner, state health
19 commissioner, president of the board of governors of West
20 Virginia university, president of the state board of con-
21 trol, state road commissioner and director of the state
22 department of public assistance or their duly authorized
23 and accredited representatives.

Sec. 13. *Legal Assistance.*—The attorney general of the
2 state and his assistants, and the prosecuting attorneys
3 of the various counties, shall render to the veterans'
4 council or director, without additional compensation,
5 such legal services as may be required in the discharge of
6 the provisions of this act.

Sec. 14. *Succession of Offices and Property.*—Upon this
2 act taking effect, the West Virginia Department of Veter-
3 ans' Affairs shall have possession of and there shall be
4 transferred from the department of public assistance and

5 the office of the state veterans' service officer to the de-
6 partment any unexpended funds appropriated for the
7 state veterans' service officer and all the property, equip-
8 ment, files, records and documents pertaining to veterans,
9 their widows, dependents and orphans.

Sec. 15. *Provisions Severable.*—The provisions of this
2 act shall be construed as severable, and should any sec-
3 tion or part thereof be held unconstitutional, or for any
4 other reason invalid, the remaining provisions shall not
5 be affected thereby.

Sec. 16. *Acts Repealed.*—Article eight, chapter nine of
2 the code of West Virginia, one thousand nine hundred
3 thirty-one, and any and all amendments thereto, and all
4 acts, or parts of acts, general or special, in conflict or in-
5 consistent with or superseded by this act are hereby re-
6 pealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C Morris

Chairman Senate Committee

J. A. DeGruyter Jr.

Chairman House Committee

Originated in the

House

Takes effect

July 1 - 1945

passage.

Howard Nease

Clerk of the Senate

Phillip

Clerk of the House of Delegates

Amos W. Fickers

President of the Senate

John E. Amos

Speaker House of Delegates

The within

Approved this the *16*

day of

March

, 1945.

Clarence Meadows

Governor.



Filed in the Office of the Secretary of State

of West Virginia

MAR 19 1945

Wm. S. O'NEAL

Secretary of State